This document contains technical assistance questions and answers for Minimum Standards for Licensed Family Day Homes.

June 26, 1998

Standard 1.1 (Subjectivity to licensure)

Question:

Jane Doe is an allegation in which the specialist confirmed that she keeps up to 17 children at one time in her small townhouse with two children of her own. Nine children are from military families.

She explained to the specialist that she has guardianship of the nine military children, and that the specialist could not count them.

The specialist reviewed children's records and documents. Jane Doe has "special power of attorney for legal guardianship" that is still effective—which gives her the power to consent for medical treatment. There are no documents of deployment for the parents of these children. Licensing specialist observed a military parent dropping by with a child during the visit. Jane Doe explained that in May 1998, two of these children will be living with her 24 hours a day for six months.

The question is:

When the specialist does the follow up visit, does she count the two children of the military family? If not, what documents does she need from the provider? Legal counsel for Jane Doe told her that she only has power of attorney in emergencies when the parents cannot be located. Jane Doe has been quite persistent and told the specialist that she would continue to involve her attorney if licensing staff does count the military children in determining subjectivity to licensure.

Answer:

The provider is subject to both family day home and independent foster home licensure.

As a follow up to this situation, Jane Doe finally realized that she was subject to licensure and reduced the number of children in care to three. When working on a solution to this situation, the specialist involved the Codes and Compliance Officer for her locality, and also contacted the manager of the town home complex where Jane Doe lives. In addition, Jane Doe is moving out of state. The specialist also contacted the appropriate military authorities to alert them to the situation, and to bring to their attention that there may be other providers encouraging parents to give them power of attorney so that they may keep more children.

February 12, 1999

Standard 1.1.

Question:

A question has come to CO about a family day home provider working outside the home.

Answer:

The definition of a "family day home provider" in both the FDH and VR standards states that this individual has "primary responsibility in providing care, protection, supervision and guidance for the children in the family day home." "Primary responsibility" means the licensee is expected to be in the home and have at least 51% of the care-giving responsibilities in order to qualify as the primary caregiver.

The 1998 Code change requires all family day home providers (licensed or VR) to disclose to the parents the percentage of time that persons other than the provider will care for the child. The Code change did not change the above definition of a "family day home provider" in standards.

March 17, 2000

Standard 1.1

Question:

A "family day home provider" is defined in the standards as "an individual who… has primary responsibility in providing care, protection, supervision, and guidance for children in the family day home." Technical Assistance sent out in February 1999, stated that in order to meet this definition, a licensee is expected to be in the home and have at least 51% of the care-giving responsibilities.

How is 51% of the care-giving responsibilities computed for a provider who offers care for various groups of children 24 hours a day in her home, but also has a job outside the home?

Answer:

Any child in care at any time must receive 51% of his direct care from the licensee.

July 30, 1999

Standard 1.1

Question:

What is a "residence?" Clarification on identifying a family day home was issued by Central Office in July 1994 which stated, "The term 'residence' may also include another building suitable for use as a residence that is located 'on the same premises or property as the principal dwelling' and can be considered an extension of the provider's principal dwelling."

Answer:

THIS INTERPRETATION IS NO LONGER IN EFFECT AND AS OF THIS DATE IS REPLACED WITH THE FOLLOWING:

For licensing purposes, a residence means the provider's principal, legal place of abode.

Any first time request (new or renewal application) will be handled differently than those already approved under the previous interpretation.

The person's legal address can be verified by:

1. Confirming with neighbors or other collateral contacts that the person lives in a certain location;
2. Observing the home to see if it contains indicators of someone living there (furnishings, household items, clothing); and
3. Viewing the individual's voter registration card or driver's license.

The location of the family day home of a new applicant for licensure must be the applicant's principal, legal place of abode.

April 7, 1998

Standard 2.1 and 2.2.2

Question:

Is there a discrimination issue in requiring providers to speak, read and write in English?

Answer:

There is no discrimination issue, because this is a safety requirement. As standard 2.1 currently states, care givers must be able to understand the minimum standards, and standard 2.2.2 states that providers must be able to speak, read and write in English. Someone should be present in the Family Day Home who can speak, read and write in English in order to read prescriptions and safety precautions, and to communicate effectively with emergency service personnel, parents, children, and Licensing personnel.

May 11, 2000

Standard 2.2.2

Question:

This standard requires the care giver to have the ability to speak, read and write in English as necessary to meet the requirements of this regulation. We have many providers who speak English as a second language and it is often difficult to accurately assess their ability. We believe there should be some type of objective criteria or test that someone could take that would remove it from a judgment call by Licensing staff. The issue is sensitive and very open to feelings on the part of the provider that they're being discriminated against. No matter how carefully we try to deal with this issue, it remains a problem in our area.

Answer:

The agency would have to go through an extensive and expensive validation procedure to develop a reliable and valid test of English proficiency.

A specialist could determine a provider's ability to carry out the health and safety requirements of the standards by asking the provider to role-play some situations (without the use of an interpreter). Suggestions are: calling the rescue squad and describing a child's head injury; calling a parent and explaining a child's physical symptoms and requesting that the child be picked up by the parent; reading a prescription and explaining

what needs to be done; reading one or more of the standards and explaining how to comply with them; explaining a rule or task to a child.
These procedures could be used with any provider, regardless of the provider's language proficiency, to determine the provider's ability to carry out the responsibilities and requirements of the standards (Standard 2.1).

April 7, 1998

Standard 2.5

Question:

What are the guidelines for obtaining first aid training for substitute providers?

Answer:

Substitute providers must also have first aid training, but they have six months from the date of employment to obtain the training.

March 24, 1999

Standard 2.5, 2.6 and 2.7

Question:

In Article I, Definitions: "Caregiver" is defined as the "provider, substitute provider, or assistant." As per this definition, in regard to Standards 2.5, 2.6 and 2.7, is it understood that anyone used as an assistant or substitute provider must have First Aid/CPR training and six (6) hours annual training and each person must have this documented on file? In the event that this substitute or assistant is used "infrequently", do these standards still apply to every "caregiver?" What guideline is used to determine "frequent" or "infrequent" use?

Article I, Definitions: "FDH Assistant" means an individual who is 14 years of age or older and who helps the provider in the home. As per this definition, in regard to Standards 2.5, 2.6 and 2.7, is it understood that any spouse or other household member who is used as an assistant when necessary to maintain ratio, or as a substitute, is required to have documented evidence of CPR/First Aid training and six (6) hours annual training? Do these standards apply even though the assistant is used only on an occasional basis? What determines "occasional?"

Answer:

The terms "caregiver", "provider", "substitute provider", and "assistant" are used interchangeably and inconsistently throughout the LFDH standards. It is one of the issues that is slated for correction in the standards.

In a child day program, a person or organization has assumed the responsibility for the supervision, protection, and well-being of a child during the absence of a parent or guardian (*Code of Virginia* § 63.1-195). A child and the parents should have the benefit of all the standards all the time.

Most of the standards refer to the "caregiver" which by definition means the provider, substitute provider, or assistant. It is the responsibility of the provider to ensure that there is always present in the home a caregiver who is "able to understand and carry out responsibilities and requirements of Minimum Standards for Licensed Family Day Homes."

IF A CHILD IS LEFT ALONE IN THE CARE OF AN ADULT ASSISTANT, THE ASSISTANT MUST HAVE ALL THE QUALIFICATIONS OF A PROVIDER/CAREGIVER LISTED IN PART II, ARTICLE 1 OF THE LFDH STANDARDS.

The following standards refer only to "the provider" or to "the provider and substitute provider", but should be interpreted as applying to any caregiver:
§ 5.1 – Talking with, playing with, and offering physical comfort to children in care;

§ 5.12 – Stimulating infants;

§ 5.13 – Following the guidance of the standard in deciding how closely to supervise children;

§ 5.22 – Meeting the standards relating to transportation;

§ 5.27 – Meeting the standards relating to time-out;

§ 5.29 – Not giving a child authority to punish another child nor consenting to a child punishing another child;

§ 5.31 – Supplementing meals from home that do not meet the standard relating to nutrition;

§ 6.13 – Reporting child abuse or neglect;

NOTE: The *Code of Virginia* at § 63.1-248.3 requires all paid caregivers to report child abuse or neglect.

§ 6.18 – Recording the name of the adult caregiver administering medication;

§ 7.4 – Maintaining confidentiality;

§ 7.6 – Having copies of emergency contacts and medical information when leaving the home with children; and

§ 7.7 – Sharing information daily with parents.

Other standards having to do with physical environment, equipment, and record keeping are the responsibility of the provider/licensee.

April 7, 1998

Standard 3.2

Question:

When a person living in the family day home becomes 18, when do they need to get the criminal record check?

Answer:

Part I., 1.1 of the Family Day Home regulation defines "adult" as any individual 18 years or older.

Part III., 3.2 of the Family Day Home regulation says that all adult members of the family day household including relatives, lodgers, care givers, and employees shall not have been convicted of a crime involving child abuse, child neglect, or any other offenses specified in 63.1-198 of the *Code of Virginia*, and shall have a criminal history check conducted no more than 90 days before the date of initial application.

Part III, 3.1.B of the Criminal Record Regulation states that a criminal record check shall be obtained on or prior to the 21st day of employment or volunteer service….

The criminal record history check should not be more than 90 days old (from the birthday), and should have been obtained within 21 days of the birth date.

Instead of using an employment date to determine compliance, the specialist or department representative should use the birth date as a guideline.

Providers may also need to be reminded that an occasional delay is experienced when obtaining Criminal Record History Checks from the State Police, and a request should be made as soon as possible in order to ensure the individual turning 18 has a criminal record history check by or within 21 days of his 18th birthday.

April 7, 1998

Standard 4.1

Question:

In regards to ensuring the safety of the children while plying in the outdoor play area, how is the need for a fence protecting the children from the street determined?

Answer:

When determining the need for a fence, such issues as the following should be considered: whether or not there is a traffic light on the street; the number of children playing in the designated play area at any one time; the quality of supervision; the proximity of the play are to the street; the posted speed limit, including the extent to which the speed limit is observed by motorists. Consideration should also be given to the location of the home. For example, is the home located on a corner? Or on a curve in the road, a narrow road, or a hill where the vision of motorists may be obstructed? Consideration may also be given to any existing warnings to motorists. For example, does the street have a caution sign warning motorists that children are at play?

The key here is to safeguard children from open and obvious hazards.

Question:

How do you consult with providers on protecting children from raised hearths?

Answer:

Pillows, bumpers, carpet pieces, sleeping bags, blankets, etc., combined with direct supervision, are encouraged to protect children from fireplace hearths. In addition, several catalogs have safety equipment designed for fireplaces, etc. Recommend contacting: "One Step Ahead", 1-800-274-8440 or "The Right Start" at 1-800-548-8531.

June 26, 1998

Standard 4.1

Question:

A provider is using a high chair that was manufactured in 1992. The chair has long metal legs and metal arms. The chair is in good condition, however, it is not as strong or sturdy as the high chairs currently on the market.

Does this high chair meet current ASTM standards? Are the ASTM standards printed in the FDH appendix current?

Answer:

Research on the Internet under ASTM's website indicates that the standards in Appendix N are the most current standards regarding high chairs. Standard F404-89 provides guidelines for high chairs. Their website is http://www.astm.org.

Specialists should use judgment since ASTM is not specific about sturdiness. Consider quality of supervision, the number of children in care, their ages – particularly if there are more infants and toddlers to supervise (children that need to be more closely supervised then others). In addition, consider the sturdiness of the chair, the weight, age and level of activity of the child, and whether or not the chair provides some type of head support.

In addition, if the chair does have "skinny" metal or wooden legs, there should be a support bar across the legs to reinforce them. Please refer to Appendix N in the Minimum Standards for Family Day Homes when determining the safety of a high chair.

April 7, 1998

Standard 4.12

Question:

How do you determine compliance with this standard?

Answer:

Inaccessible is the key factor. All toxic materials should be stored out of reach of small children, and/or locked up. When determining "out of reach", consider the height of the storage area, and make certain children are not able to access the toxic materials by climbing on something to reach them. In addition, children should be constantly supervised.

April 7, 1998

Standard 4.18

Question:

Should gas fireplace logs be included as an alternate heating device?

Answer:

Although gas fireplace logs are not specifically mention in this standard as an "alternate heating device", it is recommended that the provider have them inspected once a year.

Question:

Should inspection of an alternate heating device that is used only in the evening be required?

Answer:

The standard says that all alternate heating devices be inspected once a year. It does not exclude those devices that may be used only in the evening, or only when children are not in care. Therefore, even if the device is only used in the evening, it still needs to be inspected once a year. The evening use of the device should be noted in the case record, or on visit notes, with a reminder to have it inspected annually.

April 7, 1998

Standard 4.19

Question:

How do you determine compliance when the children are cared for in an area of the home where a furnace is located?

Answer:

The standard says that radiators, oil and wood burning stoves, floor furnaces, portable electric space heaters, fireplaces and similar heating devices in areas accessible to children shall have barriers or screens and be located at least three feet from combustible materials. Some form of sturdy barrier needs to be used to protect the children from the furnace, and children need to be closely supervised at all times when playing in the area where the furnace is located.

April 7, 1998

Standard 4.30

Question:

What is an acceptable means of ensuring the inaccessibility of the sharp kitchen utensils to the children?

Answer:

The use of children-resistant latches is sufficient for younger children. However, to ensure inaccessibility for school age children, the utensils should be stored high enough out of reach, or locked up. Also remember that there is no substitute for close supervision. Please see phone numbers for catalog companies "One Step Ahead" 1-800-274-8440 or "The Right Start" at 1-800-5488531. The Division is not endorsing products available by these companies, rather suggesting these companies are a place to start if a provider is looking for safety devices and/or equipment.

April 7, 1998

Standard 4.32

Question:

How do you determine if there is adequate space?

Answer:

When determining the amount of space per child indoors, consideration should be given to the "evidence" of free movement. For example, children are not in danger of tripping into furniture, etc. At least 25 square feet per child can be used as a rough guide for determining adequate space, but it is not a requirement. Consideration should be given to the size and amount of furniture/equipment, the nature and type of activities, and the level of supervision in all areas designated for providing care for the children.

April 7, 1998

Standard 4.35

Question:

Request guidance in the area of the use of port-a-cribs.

Answer:

It is recommended that the provider be given information printed by the Division entitled "Portable Crib-Playpen Alert!" If providers are using a port-a-crib, they should be responsible for obtaining current information regarding all portable crib/playpens that have been recalled. If the provider is using a crib that has been recalled, she is in violation of Standard 4.1, as the children are being exposed to "obvious hazards." In addition, the age, size and developmental stage of the children using the portable crib should be considered. Children in the cribs should be checked on frequently, and should be within sight and sound supervision at all times. It is recommended that port-a-cribs not be used.

May 2002

Standard 4.35

Question:

What is the most recent information regarding mesh sided portable cribs and the proper use of them? More detailed information is needed on the difference between a port-a-crib, playpen, play yard, etc.

Response:

The Consumer Product Safety Commission reported, in *Deaths Associated with Playpens, July 2001,* that over the years, "playpens, portable cribs, and play yards have evolved into **virtually identical products.** More than 2.5 million of these products are sold annually."

A "portable crib" is defined in the CPSC standards as "a non-full-size baby crib designed so that it may be folded or collapsed, without disassembly, to occupy a volume substantially less than the volume if occupies when it is used." "Non-full-size cribs" as defined by CPSC are cribs that (1) are intended for use in or around the home, for travel and other purposes and (2) that have an interior length dimension either greater than 55 inches or smaller than 49 ¾ inches, or, an interior width dimension either greater than 30 5/8 inches or smaller than 25 1/8 inches, or both.

The CPSC standards include a definition for a "crib-pen." A crib-pen is a non-full-sized baby crib the legs of which may be removed or adjusted to provide a "play pen" (two words) or yard for a child.

Mesh/net/screen cribs, nonrigidly constructed baby cribs, cradles (both rocker and pendulum types), car beds, baby baskets and bassinets (also known as junior cribs) are not subject to the provisions of the CPSC standards for full-size and non-full-size cribs. Also, they are not subject to the provisions of § 1500.18 which bans certain toys and equipment intended for use by children. Because they are not covered in the law and because both CDC and FDH standards require use of cribs for sleeping that meet CPSC standards, mesh/net/screen cribs are not permitted for sleeping in child day centers and licensed family day homes.

Play yards may be used in child day centers and family day homes, but may not be used as sleeping areas. The American Society for Testing and Materials (ASTM) developed standards for play yards in 1997. The current standards were published in 1999. According to ASTM, a play yard "is a framed enclosure with a floor made for the purpose of containing a child who (1) is unable to climb out of the play yard; (2) is 35 inches tall or less; or (3) weighs no more than 30 pounds. **Mesh-fabric** play yards are constructed with a rigid frame assembly and a fabric or mesh assembly, or both, used to function as sides, ends, or a floor, or a combination thereof. **Rigid-sided** play yards have sides/ends constructed of rigid materials like wood, plastic, or metal generally configured as a horizontal rail/vertical slat assembly. The filling material of the floor pad in a play yard (foam, fiber fill, etc.) must not exceed 1 inch in thickness. If a play yard is designed to use a floor pad, the floor pad must be provided by the manufacturer.

Mesh-sided portable cribs do not meet CPSC standards for full-sized and non-full-size cribs, therefore may not be used in licensed child day centers or family day homes for sleeping.

Mesh-sided play yards may not be used if the following hazards exist:

- Have been recalled (check CPSC's website: www.cpsc.gov)
- Mesh has large weave (1/4 inch openings or greater)
- Mesh has tears, holes, or loose threads
- Mesh is not securely attached to top rail and floor plate
- Top rail cover has tears or holes
- If stapes are used, some are missing, loose or exposed
- Provided with a pillow, comforter, or other soft bedding
- Latching or locking device requires a minimum force of 10 pounds to activate the release mechanism.

February 17, 1994

Standard 4.38

Question:

Define a safety fence around a pool. All pools have a fence but you can enter the pool through the house, thus, a child could walk out of the door into a pool. Or does this mean a fence within a fence? What about an above-ground pool with a self contained collapsible stairway which when up presents a protective access situation?

Answer:

"Outdoor swimming pools shall be enclosed by safety fences and gates with child-resistant locks …." The intent of this standard is to prevent children from accessing an above-ground or in-ground pool without supervision in order to prevent drowning accidents.

In-ground pools should be completely surrounded by a fence or barrier that is at least four feet high, with slats less than four inches apart, or link fence openings no larger than 1 ¾ inches. If there is a barrier to the backyard, or to the area on the premises where a pool is located, and the house is part of this barrier, the door(s) exiting to the pool should be locked while children are in care with a sliding latch or chain lock that is inaccessible to children (this was verified with a fire prevention officer) or should have an audible alarm.

Collapsible pool steps and ladders on a above-ground pools should be removed when the pools are not in use to protect children from accessing these pools.

April 7, 1998

Standard 4.38

Question:

Do above ground pools need to be enclosed?

Answer:

The standard specifies that "outdoor pools" shall be enclosed by safety fences and gates. Technically, this covers all pools, including above-ground pools. The answer is yes. Above ground pools need to be enclosed by safety fences (in the absence of collapsible pool steeps and ladders).

August 6, 1999

Standard 4.38

Question:

A provider has a wading pool in her backyard which measures 9 ft. x 2 ft. and holds 975 gallons of water. The provider does not empty and store the wading pool when it is not in use due to the large quantity of water it takes to fill the pool. She does, however, keep a cover on the pool when not in use and also has a small filter in the water to ensure the water is kept clean. Would this wading pool require a fence to be installed around it since the water is kept in it at all times during the summer months?

Answer:

Both the Consumer Product Safety Commission and the BOCA National Building Code define swimming pool as a structure containing water 24" deep or deeper. If it is less than 24" deep, it is a wading pool and standards require that it be emptied and stored away when not in use.

If this pool meets the definition of a wading pool, but the provider does not want to empty it when not in use, she will have to comply with the requirements in § 4.38 for swimming pools. This standard requires the pool to be enclosed by a safety fence with child-resistant locks and to be set up and maintained according to manufacturer's instructions.

The filter and cover will only take care of debris in the pool. If the provider has no manufacturer's instructions for maintaining the pool, she needs to follow the guidance of her local health department on water treatment including proper pH control and the use of chemical germicide and algicide.

April 7, 1998

Standard 5.7 and 5.13

Question:

How should compliance be determined when infants are sleeping in other rooms of the house?

Answer:

Consideration should be given to where in the house the infant(s) are sleeping in relation to the area(s) where the other children are being supervised. Is the provider able to see and/or respond (go directly to the children) quickly if necessary to the sleeping infant(s)? The provider should consider using an operating baby monitor if the infants sleep in a separate area. However, if infants sleep on a floor different from where the provider routinely cares for other children, a baby monitor should definitely be used. Providers should also be encouraged to leave doors open, and develop a schedule that ensures frequent checks.

June 26, 1998

Standard 5.13

Question:

How are staff interpreting this standard in a family day home where care is provided on different levels of the home?

When children are awake, must preschool children be with the care giver at all times?

When children are asleep, can the provider be on another level without a monitor?

Can school-age children be on another level of the home to do their homework?

Answer:

It is difficult to answer these questions because of the number of variables. When determining if children are being supervised to insure that the care giver is aware of what the children are doing at all times, the following should be considered: layout of the house and play area, the number, ages and developmental level of each child.

Additional comments:

The standard says that the care giver must supervise children in a manner that insures that he/she is aware of what children are doing at all times, and can promptly redirect, or

assist when necessary. The following should be considered: ages, individual differences and abilities, layout of the house and play area, neighborhood circumstances or hazards, and risk activities children are engaged in. In addition, the quality of supervision, and the compliance history of the provider should be considered. Suggest recommending to provider that preschool children be supervised at all times with the exception of when the provider needs a break for the restroom, or takes a brief amount of time to prepare food for the children.

When determining whether or not children should be allowed to do homework on a different level of the house, many safety issues should be considered. For example, are windows locked with screens where children are not able to unlock and open them? Are hazardous materials out of reach of the children? Can the children exit quickly and safely during an emergency, such as a fire? The number of children in question regarding each of the above situations should also be taken into consideration. Recommend having the provider document a plan for supervising children under the circumstances written above. This plan should include as many of the principles of supervision in the Child Day Standards as possible.

March 17, 2000

Standard 5.13

Question:

Standard 5.13 requires that children be "supervised in a manner which ensures that the care giver is aware of what the children are doing at all times and can promptly assist or redirect activities when necessary." Are LFDH providers who provide nighttime care for children required to remain awake?

Answer:

Although providers do not have to remain awake when children are in care during the night, the following is required and justified by the standard in parentheses:

- A care giver shall remain awake until all children are asleep (5.13);
- A care giver shall be awake to assist children who are being picked up during the night (5.13);
- The provider shall have a written, posted emergency escape plan that includes plans on evacuating sleeping children (4.23);
- The provider shall maintain documentation of monthly practiced emergency escape plans for all shifts in which children are in care (4.24);

- The provider shall provide to the licensing inspector sufficient documentation of the ways in which the provider can ensure a care giver is aware of what the children are doing at all times such as the use of motion sensors, alarms on doors, assistants who are awake, or electronic monitors; caregivers always on the same floor level as the children, etc. (5.13).

March 17, 2000

Standard 5.38

Question:

Does this standard require that snacks be posted along with meals? The standard states "when meals are provided."

Answer:

The intent of the standard is that menus for all meals and snacks provided by the family day home "shall be planned, written, dated, and placed or posted at least a day in advance in an area accessible to parents." This is necessary in order for parents to know what snacks are planned to be served and for specialists to know if providers are complying with Standard 5.32 ("snacks that are served to children shall include a variety of foods from two or more food groups").

June 26, 1998

Standard 6.1

Question:

A family day home applicant was just recertified in February 1998, for the Foster Parent Program through a local social service office. The TB test (not two years old), Criminal Record Check, and Child Protective Service Check have all been done. She is not locally certified or voluntarily registered—only a foster parent. Does she need to have the CRC, CPS and TB tests again?

Answer:

Refer to Standard 1.2.A in the Criminal Record Regulation. The Criminal Record Check must have been done within 90 days of the completion of the application. In addition, the state police check should have checked for all of the barrier crimes. The TB test is fine.

April 19, 1999

Standard 6.1 (TB Exam)

Effective January 1, 1999, the Division of Tuberculosis Control at the Virginia Department of Health has revised its recommendations to health districts and other providers on screening for tuberculosis disease and infection. These new guidelines suggest that all screening programs include an assessment for tuberculosis disease (e.g., symptom review) and that the skin testing component be targeted exclusively toward high-risk populations. Since these are recommendations, their application in modifying existing policies is left to the discretion of local health authorities.

As health departments implement these guidelines, they may not routinely provide skin testing services to low-risk groups. These changes are likely to affect child care providers who are not, as a consequence of their occupation, at risk for TB disease or infection. Therefore, in the absence of other risk factors, these providers may be unable to comply with licensing standards for TB skin testing without incurring the expense of being tested for TB by a physician.

Patients who go for tuberculosis screening to health departments that have implemented the new guidelines will undergo an assessment for risk(s) of tuberculosis infection and disease. This assessment will also include a review of the symptoms of active tuberculosis disease. Those persons found to be at risk will undergo tuberculin skin testing and additional testing as indicated. Those without risk factors or symptoms will be issued a written statement documenting the absence of risk factors and therefore the absence of a need for additional testing for tuberculosis disease or infection.

The Division of Licensing Programs will accept such a statement signed and dated by a local health department official as verification that the child care provider has satisfied the tuberculosis screening requirement.

Standard 6.1-6.3

Question:

Is the substitute provider required to obtain TB testing as required in 6.1-6.3?

Answer:

Yes, the substitute provider is required to obtain TB testing. The standards at § 6.1 require "care givers and any other adult household members who come in contact with children or handle food served to children" to be tested for TB.

A "care giver" is defined at § 1.1 as the provider, substitute provider, or assistant.

Question:

Does the memo of 3/24/99 apply to all substitute providers regardless of whether they are paid or how infrequently used (i.e. in an emergency)?

Answer:

Yes, the standards mentioned in the 3/24/99 memo (and all other standards referring to "care givers") apply to all care givers regardless of the amount of time they are with children or whether or not they are paid. The only exception is that unpaid caregivers are not required by the *Code of Virginia* to report child abuse or neglect.

Question:

If the provider leaves children in care with a parent, family member or friend while she goes to get milk, would the person left be considered a substitute provider?

Answer:

§ 5.7 of the standards states "children shall be supervised by a caregiver at all times." Again, a "care giver" is defined at § 1.1 as the provider, substitute provider, or assistant. The person with whom the children are left alone would be considered either a substitute provider or an assistant (who must be 18 years of age if left alone with children).

A substitute provider by definition must meet the qualifications for a family day home provider listed in Part II, Article 1 of the LFDH standards and be approved by the department (§1.1).

If a child is left alone in the care of an adult assistant, the assistant must have the qualifications of a provider/caregiver listed in Part II, Article 1 of the LFDH standards.

April 7, 1998

Standard 6.14

Question:

Are parents able to sign "blanket" or long term authorization for administration of medication?

Answer:

It is recommended that if a child needs to be on medication for an extended period of time, that the parent be provided with the form located in the Child Day Center Standards (Appendix II). It is also recommended that the duration of the authorization not exceed 10 working days, unless the Medical Authorization form in Appendix II is filled out and signed by a doctor.

May 11, 2000

Standard 6.18

Question:

During our recent phone conference, the subject of diaper ointment and sunscreens was discussed and it was decided that these ointments should be treated as medications. Evidently this is already being done in some regions. We did not discuss, however, whether ALL requirements for medications in Family Day Home regs would also be enforced. In the FDH standards, there is the requirement to record information each time the medication is administered. These standards will place quite a burden on home providers regarding the use of diaper ointments. It is recommended that these additional requirements should not be applied to diaper ointments and possibly sunscreen. These items should be inaccessible to the children (Standard #6.17), labeled correctly with the child's name and have the permission slip on file, but a record of each use should be waived for these items.

Answer:

The United States Department of Health and Human Services' Food and Drug Administration has determined that sunscreens and diaper ointments are "over-the-counter drugs." All the requirements concerning mediations in Standards 6.14 through 6.18 would apply to the use of these products as they would to any other non-prescription medication.

Standard 7.3.2

Question:

FDH standards require a document/statement signed by a parent giving the provider blanket authorization to utilize a substitute provider as necessary. The Information and Agreement form (032-05-011/5 Rev. 6/99) contains a statement to be agreed to by the parent authorizing the family day provider to use a substitute provider as necessary. By definition, a substitute provider is an approved adult who would provide care **in the family day provider's home.** However, in practice, one provider might depend upon another provider to take a child(ren) into their separate family day home for a brief, incidental period of time (i.e., while a provider goes to a medical appointment). In these situations, what documents does the substitute provider need?

1. There appears to be no requirement that the family day provider inform the parent(s) of the use of a substitute provider, but if the substitute is at a different address, this would seem essential.

2. Should the provider be required to notify parents whenever incidental substitute provider care at a different location is utilized?

3. The emergency information and permission forms do not detail the substitute provider by name, which might be needed if the substitute had an emergency.

4. FDH standard 7.6 does not appear to require the emergency medical treatment, emergency transportation, and illness permission to treat forms (FDH 7.3.3.b.(3)) to accompany the child when s/he leaves the home. Should the provider require parents to sign emergency medical treatment, emergency transportation, and emergency care in case of illness forms specific to the substitute provider, or are the original forms held by the provider deemed to be sufficient?

If substitute care will be provided at a separate location, parents should sign an authorization form that would show substitute's name, address and dates of care. Emergency authorization forms should be signed by parents for the substitute provider. Copies of the child(s) health and immunization records should be provided. If the second substitute provider is also licensed, she would need all information required for a child in care.

Answer:

Both the definition of "family day home' and "substitute provider" in the Minimum Standards for Licensed Family Day Homes require that the care be provided in the home of the licensed provider or the home of a child in care. If a provider is arranging for the children to be cared for in a location other than the provider's home

or the home of a child in care (even if it is for a brief, incidental period of time), the provider is not complying with the standards.

If the provider is arranging for care to be provided in another licensed family day home, then the second provider is the child's day care provider and the second provider would have to have all the records for the child that are required in Part VII of the Standards (including a written agreement with the parent as required in Standard 7.3.3).

If a parent has signed a statement allowing a licensed provider to "release" the child from the licensed family day home to an unlicensed provider, then upon that "release" the child is no longer in the care of the licensed family day home provider and the Minimum Standards for Licensed Family Day Homes do not apply (unless that home is subject to licensure).